

Notice of Allowability	Application No.	Applicant(s)	
	10/772,036	JONG ET AL.	
	Examiner	Art Unit	
	Robert Shiao	1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/12, 2005.
2. ☒ The allowed claim(s) is/are 14-24, 54-58, and 124, now are 1-17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

1. Amendment of claim 14, cancellation of claims 1-13, 25-53, 59-84, 98-99, 101-102, 104-109, 113-123, and addition of claim 124 in the amendment filed on September 12, 2005, is acknowledged. Claims 14-24, 54-58, 85-97, 100, 103, 110-112 and 124 are pending in the application. Since the newly added claim 124 is commensurate with the scope of the invention, therefore, claims 14-24, 54-58, 85-97, 100, 103, 110-112 and 124 are prosecuted in the case.

Responses to Amendment

2. Since at least one of variables R^2 and R^6 does not represent hydrogen, therefore, rejection of claims 14-24 and 54-58 under 35 U.S.C. 102(b) has been overcome in the amendment filed on September 12, 2005.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Isaac M. Rutenberg on November 10, 2005. The application has been amended as follows:

In claim 14, line 1, after "14. (" , insert

--Currently--

In claim 14, line 1, after "A compound", delete "having the structure"

In claim 14, lines 15-19, after "and combinations thereof, ", delete

"and further wherein any two adjacent (ortho) substituents may be linked to form a cyclic structure selected from five-membered rings, six-membered rings, and fused five-membered and/or six-membered rings, wherein the cyclic structure is aromatic, alicyclic, heteroaromatic, or heteroalicyclic, and has zero to 4 non-hydrogen substituents and zero to 3 heteroatoms,"

In claim 14, page 3, line 9, after "X is O, S, arylene," delete "heteroarylene,"

In claim 124, line 2, after "with a compound", delete "having the structure"

In claim 124, page 8, lines 12-16, after "and combinations thereof, ", delete

"and further wherein any two adjacent (ortho) substituents may be linked to form a cyclic structure selected from five-membered rings, six-membered rings, and fused five-membered and/or six-membered rings, wherein the cyclic structure is aromatic, alicyclic, heteroaromatic, or heteroalicyclic, and has zero to 4 non-hydrogen substituents and zero to 3 heteroatoms,"

In claim 124, line 17, after "or di-substituted amino," insert

--and that at least one of R^2 and R^6 is other than hydrogen;--

In claim 124, page 8, line 23, after "X is O, S, arylene," delete "heteroarylene,"

Delete claims **85-97, 100, 103-112**

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance:

Claims 14-24, 54-58 and 124 are neither anticipated nor rendered obvious over the art of record, and therefore are allowable.

This invention relates to analogs of indole-3-carbinol metabolites as chemotherapeutic and chemopreventive agents. The closest reference is Jong et al. US 6,800,655, which is the parent case of the instant application, discloses indole-3-carbinol metabolites as chemotherapeutic and chemopreventive agents. The difference between Jong et al. and instant claims is that the instant compounds of formula (II) have not been claimed. Suggestion for modification of above record to obtain the instant claimed compounds/composition has not been found. Claims 14-24, 54-58, and 124 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Conclusions

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Shiao whose telephone number is (571) 272-0707.

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The examiner can normally be reached on 8:30 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert Shiao, Ph.D.
Patent Examiner
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Joseph K. McKane
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November 10, 2005